

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on April 7, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: Rep. Mary Caferro (D)
Rep. Hal Jacobson (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HJ 39, 3/29/2005
Executive Action: SB 319; HJ 39; SB 477; SB 462

EXECUTIVE ACTION ON SB 319

Motion: VICE CHAIR BROWN moved that SB 319 BE CONCURRED IN.

(REP. JONES left.)

Motion: VICE CHAIR BROWN moved that AMENDMENT SB031901.ash BE ADOPTED.

EXHIBIT(sth74a01)

Discussion:

VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE explained the amendment which said unless HB 2 included the \$300,000 appropriation, the bill would be void.

REP. SUE DICKENSON, HD 25, GREAT FALLS, asked why she chose \$300,000. VICE CHAIR BROWN replied it was the average between the amounts in the fiscal note.

Vote: Motion carried unanimously by voice vote; REPS. SMALL-EASTMAN, CAFERRO, JACOBSON and JONES voted aye by proxy.

Motion: VICE CHAIR BROWN moved that SB 319 BE CONCURRED IN AS AMENDED.

Discussion:

REP. DICKENSON felt this was a sound idea but she had concerns with the price tag.

REP. ALAN OLSON, HD 45, ROUNDUP, concurred, and voiced regret that it would not clean up campaigns as independent expenditures would continue.

CHAIRMAN LARRY JENT, HD 64, BOZEMAN opined the reason for public campaign financing was to stop independent expenditures. He stated his support for the bill but wanted to find a way to eliminate third party spending.

VICE CHAIR BROWN stated SB 319 would level the playing field as third party expenditures would be matched, which would be a deterrent.

REP. A. OLSON surmised that opting for public campaign financing could be construed as a plus for the participating candidate who then could say he was not beholden to private interests.

REP. BERNIE OLSON, HD 10, LAKESIDE, said participation was optional. He asked whether matching funds would be dispersed to counteract soft money as well. **REP. DICKENSON** advised this provision was included on Page 10, Line 17 of the bill; it would reimburse up to 200% of the money spent by the opposition.

REP. BRUCE MALCOLM, HD 61, EMIGRANT, opined campaigns could be unequal if one candidate opted for the public funding, and the other used private funds. **REP. A. OLSON** read from the bill where it specified the amounts from public funding, stating they were higher than most people would accrue or spend.

(**REP. SMALL-EASTMAN** entered.)

REP. MALCOLM still wanted to know whether funds would be matched if the private money raised by one candidate was in excess of the public funds. **Sheri Heffelfinger, Legislative Services Division**, stated Subsection (3) provided for the funds to be matched, for up to 200% of the initial amount.

REP. MALCOLM wondered how independent expenditures were identified. **CHAIRMAN JENT** advised those groups were required to file a form with the Commissioner of Political Practices. **REP. MALCOLM** asked what would happen if the public financing went above the \$300,000 appropriation and, if less than the appropriated amount was spent, would it revert back to the general fund. **CHAIRMAN JENT** advised it was a liability to the State. **Ms. Heffelfinger** stated the Commissioner of Political Practices would have to ask for a supplemental appropriation; referring to the second part of the question she advised, unless otherwise specified, unused funds reverted back to the funding source, in this case the general fund.

REP. MALCOLM's suggested establishing a reserve account for future elections.

REP. DICKENSON thought it unlikely that a non-participating candidate's campaign would spend \$300,000 which would have to be matched.

REP. A. OLSON advised that independent expenditures for one Supreme Court candidate topped \$300,000 in the last election; he added that candidate won the race.

Vote: Motion that SB 319 BE CONCURRED IN AS AMENDED failed 8-8 by roll call vote with **REP. DICKENSON, REP. EATON, REP. HAMILTON, REP. HENRY, REP. JENT, and REP. SMALL-EASTMAN** voting aye;

REP. CAFERRO and REP. JACOBSON voted aye by proxy; REP. JONES voted no by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 25.5}

CONTINUED HEARING ON HJ 39

(CHAIRMAN JENT had not closed the hearing on HJ 39 in order to allow testimony by the Commissioner of Political Practices.)

Informational Testimony:

Gordon Higgins, Commissioner of Political Practices, stated this was an important study as it was a significant public policy issue. He acknowledged that even though the issue of independent expenditures seemed to be driving requests for campaign finance reform, First Amendment rights could not be impeded. He advised his office was developing guidelines in terms of what the Legislature could and could not control with regard to campaign expenditures. In closing, he offered to make any resources available which might be needed by the appropriate interim committee.

EXECUTIVE ACTION ON HJ 39

Motion: REP. A. OLSON moved that HJ 39 DO PASS.

Discussion:

REP. B. OLSON contended this would have provided clarity to issues contained in SB 319 and might result in solid public campaign financing legislation next session.

CHAIRMAN JENT commented he would like this study to be assigned to the State Administration Interim Committee.

{Tape: 1; Side: B}

Vote: Motion carried unanimously by voice vote; REPS. CAFERRO, JACOBSON and JONES voted aye by proxy.

EXECUTIVE ACTION ON SB 477

Motion: REP. HENDRICK moved that SB 477 BE CONCURRED IN.

Discussion:

VICE CHAIR BROWN commented this was not a statewide problem and she felt there was a lack of communication between the two parties. She also pointed to the 2% increase in HB 2.

REP. ROBIN HAMILTON, HD 92, MISSOULA, advised that representatives from Dawson County had been unable to attend the hearing; they conveyed to him this was a problem for them as well.

REP. B. OLSON stated the involved parties should work this out, passing a law was not necessary.

REP. A. OLSON had been under the impression these were negotiated contracts and asked Ms. Heffelfinger for clarification. **Ms. Heffelfinger** could not speak to the issue as she had not read the contracts.

VICE CHAIR BROWN surmised this issue had come before them because there was no contract, adding the Department arbitrarily set those rates.

REP. HAMILTON reminded the Committee of the short notice given to regional facilities.

REP. TERESA HENRY, HD 96, MISSOULA, contended this bill would allow for rule-making which would resolve this problem as the rates paid by the Department of Corrections (DOC) were not viable.

REP. DICKENSON advised this was an issue in Cascade County as well, adding they depended on depreciation cost being included in the per diem rates.

VICE CHAIR BROWN agreed parameters should be put in place but felt the Department should not guarantee rates because of the budget uncertainty. She added this would have to part of the negotiations.

REP. MALCOLM remarked he could not imagine how these facilities could operate without contracts.

VICE CHAIR BROWN advised there was a contract but DOC was holding all the cards.

REP. HAMILTON stated the contract did not provide for negotiations should costs go up.

REP. MALCOLM insisted this should be in the contract.

VICE CHAIR BROWN felt comfortable with the 2% increase in HB 2 and suggested not passing this bill.

REP. MALCOLM advised if the regional facilities did not like the per diem rates, they could refuse to house State prisoners.

CHAIRMAN JENT stated the issue was whether the Legislature should dictate how the State handled their contracting or whether it should be left up to the DOC and the regional facilities to negotiate rates within the confines of HB 2 on a regular basis.

REP. VERONICA SMALL-EASTMAN, HD 42, LODGE GRASS, advised that Big Horn County housed Federal, State, County, and municipal prisoners without getting reimbursed fully. She would support the bill as a first step in ensuring reimbursement to counties.

REP. A. OLSON commented that the facility in his district had to pay the going rate to other detention centers for housing their detainees, without being able to negotiate.

REP. EMELIE EATON, HD 58, LAUREL, saw the bill as a way for counties to be reimbursed at a viable rate, without local taxpayers having to pick up the difference. She added the State had the choice of where to house its prisoners as regional facilities had varying costs.

VICE CHAIR BROWN asked whether the 2% increase had been approved; she added that unless this increase had been cut, she would not support this bill.

Vote: Motion that SB 477 BE CONCURRED IN carried 9-7 by roll call vote with **REP. ANDERSEN, REP. BROWN, REP. HENDRICK, REP. MACLAREN, REP. MALCOLM**, and **REP. A. OLSON** voting no; **REPS. CAFERRO** and **JACOBSON** voted aye by proxy; **REP. JONES** voted no by proxy.

REP. HAMILTON agreed to be the House Sponsor.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 27.1}

EXECUTIVE ACTION ON SB 462 CONTINUED

Motion: **REP. A. OLSON** moved that SB 462 BE TAKEN OFF THE TABLE.

Discussion:

REP. A. OLSON advised he was made aware that **SEN. BALES** had not presented this bill well; he felt it was an important issue.

{Tape: 2; Side: A}

Vote: Motion carried 7-6 by roll call vote with REP. DICKENSON, REP. EATON, REP. HAMILTON, REP. HENRY, REP. JENT, and REP. SMALL-EASTMAN voting no.

Note: Proxy votes are not allowed for this type of motion.

Motion: REP. OLSON moved that SB 462 BE CONCURRED IN.

Discussion:

REP. HAMILTON stated the Attorney General's Office held this bill was not needed as there was no backlog of cases.

VICE CHAIR BROWN asked REP. A. OLSON to explain the need for the bill.

REP. A. OLSON agreed the bill was not brought because of any backlogs; he summarized it was a venue bill which put the challenges to permitting and licensing into the counties where the activity was taking place. Lawsuits against the Hardin Power Plant, for example, should be heard in Hardin. He charged that this bill protected local residents' rights.

REP. B. OLSON agreed, adding it was a fairness issue.

REP. DICKENSON contended there would be fiscal impact as expert witnesses would have to travel from their agencies in Helena; she anticipated more challenges due to the changes in the Montana Environmental Protection Act (MEPA).

REP. GARY MACLAREN, HD 89, VICTOR, advised one of the basic provisions in the American justice system was the right to a trial by a jury of peers. He did not think people in Helena would necessarily qualify in other counties.

CHAIRMAN JENT commented these legal actions would not result in jury trials. He added he favored existing statute as the experts from State agencies were located in Helena; secondly, he felt it would be difficult for local judges to rule against local residents.

REP. JOAN ANDERSEN, HD 59, FROMBERG, advised this was an issue of local residents having access to the court system. She added that these local residents were paying for the expert witnesses to testify. REP. ANDERSEN contended they did not need the additional expense of having to drive to Helena.

REP. A. OLSON made the point that judges could be disqualified by either party but if a judge in Helena was disqualified, another judge from the same county would be seated. He added that most of these proceedings were done electronically, eliminating travel time and expense and disputed the claim with regard to expert witnesses, contending Helena did not have a lock on them. In closing, he stated none of the arguments given in opposition to the bill were valid as all of them could be refuted.

Vote: Motion failed 8-8 by roll call vote with REP. ANDERSEN, REP. BROWN, REP. HENDRICK, REP. MACLAREN, REP. MALCOLM, REP. OLSON, and REP. OLSON voting aye; REPS. CAFERRO and JACOBSON voted no by proxy; REP. JONES voted aye by proxy.

Note: SB 319, which failed on a tie vote in Committee earlier this day, was blasted out of Committee with a Silver Bullet on April 13, 2005, copy of the Standing Committee Report enclosed. It went through several Free Conference Committees and ultimately died in process.

ADJOURNMENT

Adjournment: 9:30 A.M.

REP. LARRY JENT, Chairman

MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT ([sth74aad0.TIF](#))